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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,296	07/09/2003	William C. Eungard	87353.2961	7071

7590 09/15/2005

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EXAMINER
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A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/615,296

Applicant(s)

EUNGARD, WILLIAM C.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed..
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 2/12/04.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. PRODUCT BY PROCESS CLAIM:

“ The subject matter present is regarded as a product by process claim in which a product is introduced by the method in which it is made. It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.”

The limitation of “blow mold” is treated accordingly to the office policy set forth above.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 14, 16, 21-23, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitations of “indirectly or indirectly”, “can be integral...or a separate...or can be both” are confusing the scope of the claims.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11, 13-36, 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Brockman et al (5185977).

Brockman et al shows a panel assembly mountable along an opening in a dock wall comprising a second panel (240, 224', 222'), a first panel (220'), the second panel is adapted for essentially pivotal movement relative to the first panel about a first axis, the first panel is adapted for essentially pivotal movement relative to the dock wall about a second axis, the first panel having a front edge, a rear edge, the second panel having a front edge and rear edge, the rear edge of the second panel being pivotally connected to the front edge of the first panel, the rear edge of the second panel is hingedly connected to the front edge of the first panel, the edge of the second panel is castellated and the front edge of the first panel being also castellated such that the rear edge of the second panel and the front edge of the first panel interlock to form a hinge joint, a stay (the part joining the panels together), the panel assembly having a length and the stay is positioned in an opening extending the length of the panel assembly through the castellated front edge of the first panel and the castellated rear edge of the second panel, the stay biases the panel assembly to an open position (inherently so as the figures 3-4 show the assembly being in open positions), the panel assembly having an interior face on the side of the dock opening and an opposing exterior face, the panel assembly further comprising at least one backing member positioned at the first axis on the interior face of the panel assembly, the backing member (160) biases the panel to an open position where the second panel is held away from the first panel, the backing member is springs, the first panel having recessed portion at or near the front edge of the first panel, the second panel having a recessed portion at or near the rear edge of the panel, the backing member is adapted to fit between the recessed portions, the first panel and the second comprising a rigid but flexible material, at least one of the first or second panels comprise a plurality of panel portions which assembled to form the first or second

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panels, the rear edge of first panel is directly or indirectly mountable to the dock wall, the panel assembly further comprising at least one L-shaped bracket for flexibly mounting the rear edge of the first panel to the dock wall, a seal member (250) located at the front edge of the second panel, the seal can be integral with the second panel, the seal member comprising a hook portion located at the front edge of the second panel, the hook portion comprising a sealing strip, the first panel having a length and the second panel having a length and the length of the first panel and length of the first panel and the length of the second panel being sized for vertical mounting along the opening in the dock wall, the first panel having a length and the second panel having a length of the first panel and the length of the second panel being sized for horizontal mounting along the width of the opening in the dock wall, the dock having a dock floor, the first, second, third, and fourth axes of rotation are substantially parallel to one another, the assembly is expandable, the seal member comprising a serrated portion (shown by part 246 and its adjacent surface), a top sealing member means located at an edge of the top front panel means, the top front panel means being operably coupled to the top rear panel means such that the top front panel means deflects toward the dock wall opening, a first corner panel (figure 1) adapted to overlap the top portion assembly and the first expandable panel assembly when mounted, a second corner seal adapted to overlap the top portion panel assembly and the second expandable panel assembly when mounted..

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman et al (5185977).

Brockman et al shows all the claimed limitations. The claimed method steps of providing shelter about the end of a vehicle body parked at a dock opening would have been the obvious method steps of providing Brockman et al's shelter for vehicle's ends.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman et al (5185977).

Brockman et al shows all the claimed limitations except for the material being blow molded.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Brockman et al's structure to show being blow molded because blow molding, extrusion, cold rolled, hot roll etc...are well known process for forming panels.

### ***Conclusion***

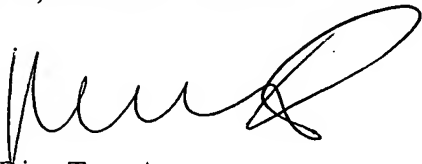
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different dock shelter designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A

9/13/05